



April 5, 2005

Mr. William A. Talks About, Chairman
Blackfeet Tribal Business Council
P.O. Box 850
Browning MT 59417

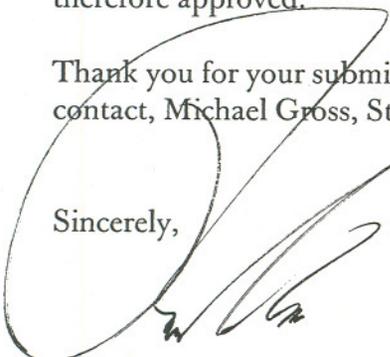
Re: Approval of Ordinance No. 101

Dear Chairman Talks About:

This is in response to your January 5, 2005, letter seeking review and approval of the new Blackfeet Nation Class III gaming ordinance, No. 101, enacted pursuant to Business Council Resolution No. 68-2005. The ordinance is consistent with the requirements of the Indian Gaming Regulatory Act (IGRA) and this agency's regulations, and it is therefore approved.

Thank you for your submission. If you have any questions or require assistance, please contact, Michael Gross, Staff Attorney, at 202-632-7003.

Sincerely,



Philip N. Hogen
Chairman

cc: Ms. Terryl T. Matt, Tribal Attorney



ORDINANCE NO. 101

BLACKFEET NATION GAMING ORDINANCE

**Adopted by the Blackfeet Tribal Business Council
On December 2, 2004
Resolution No. 68-2005**



BLACKFEET NATION

P.O BOX 850 BROWNING, MONTANA 59417
(406) 338-7521 FAX (406) 338-7530

EXECUTIVE COMMITTEE

WILLIAM "ALLEN" TALKS ABOUT - CHAIRMAN
PATRICK THOMAS - VICE CHAIRMAN
FRED GUARDIPEE - SECRETARY
JOE GERVAIS - TREASURER

BLACKFEET TRIBAL BUSINESS COUNCIL

WILLIAM "ALLEN" TALKS ABOUT
PATRICK THOMAS
FRED GUARDIPEE
JAY ST. GODDARD
JIMMY ST. GODDARD
HUGH MONROE
EARL OLD PERSON
PATRICK SCHILDT
BETTY COOPER

RESOLUTION

No. 68-2005

WHEREAS; The Blackfeet Tribal Business Council is the governing body of the Blackfeet Indian Nation headquartered in Browning, MT by the authority of the Constitution and By-Laws of the Blackfeet Indian Tribe first approved on December 13, 1935, and

WHEREAS, The Blackfeet Tribal Business Council has been organized to represent, develop, protect, and advance the views, interests, education, and resources of the Blackfeet Indian Nation, and

WHEREAS, pursuant to Article VI, Section 1(k) of the Constitution and By-Laws of the Blackfeet Indian Reservation empowers the Blackfeet Tribal Business Council to promulgate Ordinances for the purposes of safeguarding the peace and safety of the Blackfeet Indian Reservation, and

WHEREAS, The Blackfeet Tribal Business Council is desirous of advancing economic development on the Blackfeet Indian Reservation through the development of Class III gaming on the Blackfeet Indian Reservation,

WHEREAS, Requirements of the Indian Gaming Regulatory Act call for the enactment of an ordinance governing Class III gaming, and

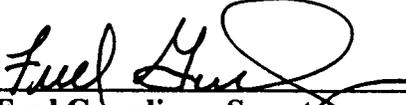
WHEREAS, That Ordinance No. 94, as amended, will be repealed by an entirely new gaming ordinance which will be submitted to the National Indian Gaming Commission, now

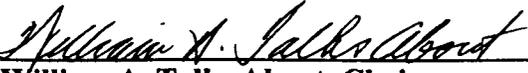
THEREFORE BE IT RESOLVED as follows:

1. That Ordinance 94, Class III Gaming Ordinance, as amended, is hereby repealed in its entirety.
2. That Ordinance No. 101, entitled "Blackfeet Nation Gaming Ordinance" is hereby adopted by the Blackfeet Tribal Business Council
3. That the Chairman and Secretary are hereby authorized to sign this Resolution and Ordinance No. 101.

ATTEST:

**THE BLACKFEET INDIAN TRIBE OF THE
BLACKFEET INDIAN RESERVATION**


Fred Guardipee, Secretary


William A. Talks About, Chairman

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Blackfeet Tribal Business Council during a duly called, noticed and convened Regular Session assembled for business on the December 2, 2004 with nine (9) members present to constitute a quorum and with a vote of 9 **FOR** and 0 **OPPOSED** , and 0 **ABSTAINING**.

(CORPORATE SEAL)


Fred Guardipee, Secretary
Blackfeet Tribal Business Council

ORDINANCE NO. 101

BLACKFEET NATION GAMING ORDINANCE

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ORDINANCE NO. 101

BLACKFEET NATION GAMING ORDINANCE

INTRODUCTION

Ordinance No. 101 is hereby promulgated to regulate Class III gaming within the exterior boundaries of the Blackfeet Indian Reservation, and to produce revenue for the support of tribal government operations that promote the health, education, and welfare of the tribe.

SECTION 1. REPEAL OF FORMER ORDINANCE. Ordinance 94, as amended, passed by the Blackfeet Tribal Business Council, is hereby repealed.

SECTION 2. FINDINGS. The Blackfeet Tribal Business Council (BTBC) finds:

- A. That operation of bingo and other games of chance by the Blackfeet Tribe (Tribe) is a valid means of promoting economic development and the health and welfare of Blackfeet tribal members; and
- B. That under the principles established by the United States Supreme Court in *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987), Indian Tribes have the exclusive right to regulate gaming activity on Indian lands if the activity is not specifically prohibited by federal law and is conducted within a state which does not criminally prohibit the activity; and
- C. That the United States Congress has recently enacted Public Law 100-497, codified at 25 U.S.C. 2701 et seq., commonly known as the Indian Gaming Regulatory Act (IGRA) authorizing certain types of Class II and Class III gaming activities as defined in that Act on lands within the jurisdiction of the Tribe; and
- D. That the terms of the Compact governing Class III gaming activities on lands within the jurisdiction have been established in accordance with the provisions of the Indian Gaming Regulatory Act; and
- E. That the BTBC is the duly constituting governing body of the Tribe, and is empowered by the Constitution and By-laws to enact this Tribal gaming ordinance; and
- F. That Tribal regulation of gaming activity on the Blackfeet Indian Reservation (Reservation) is vital to the protection of Reservation lands and interests of the Tribe and its members.

SECTION 3. DEFINITIONS

“CLASS I GAMING”. The term Class I Gaming shall mean:

- A. Social games played solely for prizes of minimal value; or
- B. Traditional forms of Indian gaming when played by individuals in connection with Tribal ceremonies or celebrations.

“CLASS II GAMING” The term Class II Gaming shall mean:

- A. The game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith):
 - (1) Which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
 - (2) In which the holder of the card covers such numbers of designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - (3) In which the game is won by the first person covering a previously designated arrangement of numbers of designations on such cards, including (if played in the same location) pull-tabs,
- B. Card games that:
 - (1) Are explicitly authorized by the State of Montana (State), or
 - (2) Are not explicitly authorized by the State, and are played at any location in the State.
- C. Non-banking card games that:
 - (1) State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the State; and
 - (2) Players play in conformity with State laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes.

“CLASS III GAMING”. The term Class III Gaming means all forms of gaming that are not Class I or Class II Gaming, included but not limited to:

- (1) Card games;

- (2) Casino games;
- (3) Any slot machine as defined in 15 U.S.C. 1171(a)(1) and electronic or electromechanical facsimiles of any game of chance;
- (4) Any sports betting and pari-mutuel wagering including but not limited to wagering on horse racing, dog racing jai alai;
- (5) Lotteries.

“COUNCIL”. The term “Council” shall mean the Blackfeet Tribal Business Council, the governing body of the Blackfeet Tribe.

“GAMING COMMISSION” or “COMMISSION”. The term “gaming commission” or “Commission” shall mean a five (5) member commission appointed by the BTBC to address all gaming matters.

“GAMING ESTABLISHMENT”. The term “gaming establishment” shall mean a place where Class III gaming is conducted on the Reservation.

“GAMING OPERATION”. The term “gaming operation” shall mean each economic entity that is licensed by the Tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. Further, the term may apply to the Tribe, a management contractor, or other entity that may operate a gaming operation.

“HOUSE BANKING GAME”. The term “house banking operation” shall mean any game of chance that is played with the house as a participant in the game, where the house takes on all players, collects from all losers, and pays all winners.

“INDIAN LANDS” or “RESERVATION”. The terms “Indian lands” and “reservation” shall mean:

- A. Any lands within the exterior boundaries of the Blackfeet Indian Reservation; or
- B. Lands over which the Tribe exercises governmental power and that is either:
 - (1) Held in trust by the United States for the benefit of the Blackfeet Tribe or individual; or
 - (2) Held by the Blackfeet Indian Tribe or individual, subject to restriction by the United States against alienation.

“KEY EMPLOYEE”. The term “key employee” shall mean:

- A. A person who performs one or more of the following functions:
 - (1) Bingo caller;
 - (1) Counting room supervisor;

- (2) Chief of security;
- (3) Custodian of gaming supplies or cash;
- (4) Floor manager;
- (5) Pit boss;
- (6) Dealer;
- (7) Croupier;
- (8) Approved of credit; or
- (9) Custodian of gaming devices, including persons with access to cash and accounting records within such devices.

B. If not otherwise included above:

- (1) Any other person whose total cash compensation is in excess of \$50,000 per year; or
- (2) If not otherwise included, the four most highly compensated persons in any gaming operation.

“LICENSE”. The term “license” shall mean a person to whom a license is issued. The issuance of a license shall not create property or liberty interest in such license for the benefit of the licensee.

“MANAGEMENT CONTRACT”. The term “management contract” shall mean any contract, subcontract, or collateral agreement between the Tribe and a contractor or between a contractor and subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

“MANAGEMENT ENTITY” or “CONTROLLING SHAREHOLDER”. The terms “management entity” or “controlling shareholder” shall apply to:

A. When a person is party to a management contract, any person having a direct financial interest in such management contract;

B. When a trust is a party to a management contract, any beneficiary or trustee;

C. When a partnership is a party to a management contract, any person who is a director or who holds at least 10% of the issued and outstanding stock, alone or in combination with another stockholder who is a spouse, parent, child, or sibling;

D. With respect to any non-natural person with an interest in a trust, partnership or corporation that has an interest in a management contract, all beneficiaries, trustees, partners, or directors of, and five (5) percent stockholders of, such non-natural person.

“MINOR”. The term “minor” shall mean any individual under the age of eighteen (18) years of age.

“ORDINANCE”. The term “ordinance” shall mean Blackfeet Tribal Ordinance No. 101.

“PERSON”. The term “person” shall mean any individual, co-partnership, or corporation who owns or operates premises, which have been licensed by the Tribe.

“PRIMARY MANAGEMENT OFFICIAL”. The term “primary management official” shall mean:

- A. The person having management responsibility for a management contract;
- B. Any person who has authority:
 - (1) To hire and fire employees; or
 - (2) To set up working policy for the gaming operation; or
 - (3) For financial management.
- C. The chief financial officer or other person who has financial management responsibility for any gaming operation;
- D. Any person who is considered a controlling shareholder;
- E. Any person the commission designated by commission rules as primary management official.

“TRIBE”. The Blackfeet Tribe of the Blackfeet Indian Reservation.

SECTION 4. SCOPE OF CLASS III ORDINANCE AND PENALTIES.

- A. **Scope**. Class III gaming on the Reservation shall be permitted only in accordance with the terms of this Ordinance and the rules and regulations made pursuant hereto, and all other gambling is prohibited with the exception of traditional forms of gambling such as stick game or hand game or any other form of traditional category. The final determination as to whether or not such gaming is traditional and protected under this Ordinance shall be by the Blackfeet Gaming Commission, and gaming done in accordance with the Class II Ordinance governing Class II gaming.
- B. **Unauthorized Gaming**. Any person who commits any act of unauthorized gaming pursuant to this Ordinance on the Reservation or any other Tribal lands shall be guilty of a crime and shall be prosecuted in Tribal Court and/or any other court of competent jurisdiction.

SECTION 5. GROSS AND NET REVENUES

- A. **Gross Revenues.** For the purposes of this Ordinance, the total amount of all money wagered on Class III games authorized by and conducted pursuant to the Ordinance.
- B. **Net Revenues.** For purposes of this Ordinance, gross revenues of all Class III gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees, attributable in accordance with generally accepted casino accounting principles of the American Institute of Certified Public Accountants to the operation of Class III gaming activity.

SECTION 6. BLACKFEET GAMING COMMISSION; OFFICERS; DUTIES.

- A. **General.** There shall be formed a commission known as the Blackfeet Gaming Commission (Commission) which shall be appointed by the Council and shall consist of five (5) enrolled members of the Tribe.
- B. **Officers.** The Commission shall select from within its membership a Chairman, Vice-Chairman and Secretary. The Chairman shall be in charge of calling all meetings of the Commission and shall chair all meetings. The Chairman shall not make motions and shall vote only in the event of a tie among the remaining members of the Commission. The Vice-Chairman will act in the absence of the chairman. The Secretary shall be in charge of keeping the minutes of all Commission meetings and hearings and submitting such minutes to the Council. The Secretary will also perform inform other commission members of meeting cancellations, complaints for review, and meeting agenda.
- C. **Quorum.** A quorum of the Commission shall consist of 51% or more of the total Commission membership or three (3) members. A quorum shall be required for all official meetings of the Commission.
- D. **Powers of the Commission.** The Commission shall have authority to enforce any provisions of this Ordinance, including any rules and regulations adopted by the Commission pursuant hereto. The Commission shall also conduct hearings on any applicable dispute brought under this Ordinance, with the exception of criminal hearings on criminal charges made under this Ordinance or any rules and regulations of the Commission. The Commission shall be granted any additional duties as outlined in the Commission Guidelines and Responsibilities Manual. An Appeal from any decision of the Commission shall be in accordance with the appeals procedure set forth in this Ordinance.

In addition to and in conjunction with the powers and responsibilities listed in this Ordinance, the rules, and other applicable law and regulations the Commission shall have power to:

- (1) Issue orders of temporary closure of gaming activities for violations of this gaming ordinance or of contractual obligations to the Tribe, the IGRA, or the approved Class III compact or orders of permanent closure of gaming activities for violations of this gaming ordinance. Tribal gaming regulations or contractual obligations to the Tribe;
- (2) Initiate civil and criminal actions in court to enforce provisions of this ordinance, tribal gaming regulations, or the IGRA;
- (3) Negotiate and approve management agreements for Class II gaming to be submitted to the Council for approval by Council resolution;
- (4) Approve, deny, or revoke gaming licenses for Class II or Class III gaming;
- (5) Monitor all gaming activities conducted on the Reservation lands on a continuing basis;
- (6) Insure that background investigations are conducted as required by this Ordinance and the IGRA as well as conduct such additional investigation, as the Commission deems necessary;
- (7) Demand access to and inspect, examine, copy, and audit all papers, books, and records concerning activities and revenues of any gaming activity conducted on the Reservation and any other matters necessary to carry out their duties under this Ordinance;
- (8) Conduct such hearings as the Commission may deem appropriate in carrying out its duties, including administering oaths or affirmations to witnesses and issuing subpoenas to compel witnesses to appear at such hearings;
- (9) When information is received through audits or other investigations that indicates a violation of Tribal, Federal, or applicable State ordinances, laws, or regulations, to treat as confidential and provide such information to the appropriate law enforcement officials;
- (10) Adopt regulations deemed necessary to clarify or enforce the provisions of this Ordinance or Tribal rights and interests

established, in approved management agreements or an approved Class III compact; and

- (11) Adopt Blackfeet Tribal Class II and Class III gaming license applications.

E. **Background Investigations.** Prior to appointment, the Tribe shall conduct an investigation into the background and personal histories of all candidates for positions on the Commission in order to insure that no person may serve on the Commission unless they meet the licensing standards otherwise applicable to applicants for a Tribal gaming license. Vacancies shall be filled on an interim or permanent basis by appointment by the Council. No member of the Commission, nor any member of the immediate family of any member of the Commission may:

- (1) Be employed in the operations of Class III gaming;
- (2) Participate in any gaming activity offered by the Tribe in its gaming facilities;
- (3) Solicit or accept employment from any person or entity licensed by the Commission either during a member's term or for a period of one (1) year thereafter, provided, however, that this restriction shall not apply to persons or entities licensed to provide non-gaming goods or services.
- (4) During the member's term, own any securities of, or any ownership interest whatsoever in, any entity licensed by the Commission, provided, however, that this restriction shall not apply to publicly held corporations if the ownership therein is less than 5%.

SECTION 7. TRIBAL COMMISSION- TERMS OF OFFICE; REMOVAL FROM OFFICE.

Initial appointment to the Commission shall be for terms as follows:

- A. The Chairman for a term of three (3) years.
- B. One associate member for a term of two (2) years.
- C. One associate member for a term of one (1) year.

After the initial appointments, all members shall serve for a term of three (3) years. There shall be no limitation on the number of terms that any member may serve. Each member shall serve for the duration of his or her term and until a successor shall be duly appointed and qualified, provided, however, that in the event a successor is not duly

appointed and qualified within 120 days after the expiration of a member's term, a vacancy shall be deemed to exist.

Members of the Commission may be removed with cause by a majority vote of the Council. Cause for removal shall include, but not be limited to, misconduct in office, willful neglect of duty, unfitness for office, and incompetence. Members of the Commission may be removed without cause by unanimous vote of the entire Council.

Any member shall automatically forfeit his or her office upon conviction of any crime enumerated in Tribal or Federal statutes which carries a maximum possible penalty of five (5) years or more, or upon conviction of any like crime in any other jurisdiction, or upon conviction of any Federal crime.

SECTION 8. EXECUTIVE DIRECTOR.

There is hereby created within the Commission the position of Executive Director. The Executive Director shall be appointed by the Council, which shall also set the Executive Director's term of compensation. The Executive Director shall report and be accountable to the Commission; shall be responsible for supervision and administration of the operational responsibilities of the Commission; and shall carry out the policies promulgated by the Commission. The Executive Director shall serve on a full-time basis. Prior to appointment, the Tribe shall conduct an investigation into the background and history of the candidate for Executive Director in order to insure that no person may serve as Executive Director unless that person meets the licensing standards otherwise applicable to applicants for a Tribal gaming license. The restrictions to Commissioners and the immediate family members of Commissioners pursuant to Section 6(e) of this Ordinance shall be similarly applicable to the Executive Director and his or her immediate family. At any time during which there exists a vacancy in the office of Executive Director, the Chairman shall perform the duties and responsibilities of the Executive Director.

SECTION 9. GENERAL COUNSEL.

There is hereby created within the Commission the office of the General Counsel. The General Counsel shall represent the interests of the Commission in all legal respects. The General Counsel shall represent the Commission on all contested matters, shall attend such meetings of the Commission as may be practicable upon the request of the Commission, and shall advise the Commission in all legal questions and shall assist the Commission in the proper administration of its affairs.

SECTION 10. TRIBAL COMMISSION- RESPONSIBILITIES.

The Commission shall have primary responsibility for establishment of regulatory policy, and administrative enforcement of that policy, and, through its agents and employees, for the on-site regulation, control, and security of any Class III gaming

facilities and operations. Thus administered, the responsibilities of the Commission shall include:

- A. The physical safety of patrons in the gaming facilities and operations;
- B. The physical safety of personnel employed by the gaming facilities and operations;
- C. The physical safeguarding of assets transported to and from the gaming facilities and cashier's cage department;
- D. Protecting the gaming facilities and operations from illegal activity;
- E. Identifying all people and entities that may be involved in illegal activity for the purpose of notifying when appropriate, the appropriate law enforcement agency(s);
- F. The recording of all unusual occurrences within the gaming facilities and operation in accordance with procedures to be established by the Tribe, which adequately provide for permanent recordation sufficient to appropriately document any such occurrence, including, but not limited to:
 - (1) a sequential number;
 - (2) the date;
 - (3) the time;
 - (4) the nature of the incident;
 - (5) the persons or entities involved in the incident; and
 - (6) the security or Commission employees assigned.
- G. The Tribal Commission shall employ duly qualified Compliance Officers who shall be independent of the gaming facilities and operation as well as the management company, and shall be supervised by and be accountable to the Commission. These Compliance Officers shall provide oversight to the services of any management company and any other service entity. These Compliance Officers shall report to the Executive Director regarding the failure by the Tribal gaming facilities or operations to comply with any provision of the Compact, or with any applicable laws, ordinances, or regulations. The Executive Director shall, in turn, report such failures to the Commission. The Compliance Officers shall receive patron complaints within the gaming facilities and operations, and shall assist in seeking voluntary resolution of such complaints. The Commission, through its staff, shall investigate any report of a failure to comply with any provision of the Compact, or with any applicable laws, ordinances, or regulations. The Commission, upon receipt of reports from staff, may direct the terms and conditions of compliance to the Tribal gaming facilities and operations. As a condition of employment,

Compliance officers shall be required to satisfy the standards applicable to a Tribal license and a State certification. The Commission shall establish the terms of compensation of the Compliance Officer.

- H. The Tribal Commission shall be present in the gaming facilities and operations during all hours of operation through a Compliance Officer, and shall have immediate access to all areas of the gaming facilities and operations for the purpose of ensuring compliance with the provisions of the Compact and Tribal ordinances. Any violation of the Compact or Tribal ordinances by the Tribal gaming facilities or operations, gaming employee, or any other person, shall be reported immediately to the Commission, and shall be forwarded to the State as soon as reasonably practicable thereafter, but in no case in more than seven (7) days. In matters of suspected criminal activity, the State shall be afforded immediate and effective notification.
- I. The Commission, through its staff, shall investigate any reported violation of the Compact, and shall require the Tribal gaming operation to correct the violation upon such terms and conditions as directed by the Commission. The Commission is empowered to impose fines and any other sanctions against any licensee, employee, or any other person or entity directly or indirectly involved in or benefiting from the gaming facilities or operations.
- J. Upon completion, the Commission shall forward copies of all investigation reports and final dispositions to the proper law enforcement agency. If requested by the Commission, the State may assist in any administrative investigation initiated by the Commission, and may provide other requested services to ensure compliance with the Compact and Tribal ordinances and laws.
- K. The Commission shall conduct all licensing duties imposed upon the Tribe pursuant to the Compact and Section 6 of this Ordinance. The Commission will perform background investigations and issue licenses to key employees and primary management officials according to the requirements at least as stringent as those outlined in the regulations of the National Indian Gaming Commission at 25 C.F.R. Parts 556 and 558.

The Commission shall ensure that the policies and procedures set out in this subsection are established and implemented with respect to key employees and primary management officials employed at any Class III gaming enterprise operated on Blackfeet Indian Lands.

SECTION 11. REPORT TO THE NATIONAL INDIAN GAMING COMMISSION

- A. Unless otherwise authorized by the National Indian gaming Commission, pursuant to the procedures set out in Section 16 of this Section, the Commission shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:
- (1) Steps taken in conducting a background investigation;
 - (2) Results obtained;
 - (3) Conclusions reached; and
 - (4) The basis for those conclusions.
- B. The Commission shall submit, with the report, a copy of the eligibility determination made under Section 16 of this Ordinance.
- C. If a license is not issued to an applicant, the Commission:
- (1) Shall notify the National Indian Gaming Commission (NIGC); and
 - (2) May forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individual Records System.
- D. With respect to key employees and primary management officials, the Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three 930 years from the date of termination of employment.

SECTION 12. ELIGIBILITY OF APPLICANT

To determine whether an applicant is eligible to receive a gaming license from the Tribe, the Commission shall consider the results from all background investigative work performed. Based on these findings, the Commission may refuse to issue a gaming license to the applicant if the Commission determines the applicant is ineligible, or, in the judgment of the commission, it would be in the best interest of the Tribe to refuse to grant such license. In addition to any further requirements, a license shall not be issued to a person:

- A. Who has been convicted of a felony offense within ten (10) years of the date of application or is on probation or parole or under deferred prosecution for committing a felony offense; or
- B. Whose license issued under this law has been revoked for cause; or

- C. Who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application; or
- D. Who is not a citizen of the United States and who has not been a resident of the Reservation for at least one (1) year immediately proceeding the filing of the application for license; or
- E. Who poses a threat to the public interest.

Additional regulations and rules may also be adopted for the purpose of the protection of the public health, welfare, and safety of the residents of the Reservation and to assure compliance with the intent of this law. The Council must approve any regulations adopted by the Commission pursuant to this Ordinance.

SECTION 13. GAMBLING EXEMPT FROM LICENSING FEE.

The following forms of gambling shall be permitted without the payment of any license fee:

- A. Raffles conducted for charitable purposes;
- B. Sports or any other gambling pool where no percentage or rake-off is made or collected by any person or persons conducting the pool;
- C. Gambling in private homes, provided that the home does not meet the definition of a gaming establishment set out in Section 3, above;
- D. All forms of gambling conducted on the grounds of traditional Tribal celebrations, including Indian Days at Starr School, Browning, Heart Butte, and Two Medicine, and all gambling conducted during stick game or hand game tournaments.

SECTION 14. OWNERSHIP OF GAMING.

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance. Unless otherwise specified in a management contract entered into by the Tribe, the Tribe shall have the sole control over any bank accounts holding any financial assets related to the Tribe's gaming operations.

SECTION 15. PROTECTION OF ENVIRONMENT.

- A. Gaming facility construction, as well as the operation of any gaming by the Tribe, shall be conducted in a manner that adequately protects the environment and the public welfare.

- B. Whenever a management contract provides for the development and construction of gaming facilities, the management contractor shall provide environmental information as may be necessary by the NIGC.

SECTION 16. PROCEDURES FOR LICENSING KEY EMPLOYEES & PRIMARY MANAGEMENT OFFICIALS.

- A. Each key employee or primary management official that will be responsible for the conduct and operation of a Tribal gaming operation must apply for a Blackfeet Tribal Class III gaming license from the Commission, and provide the appropriate application fee.
- B. As a part of the application process, the applicant shall be notified that a background investigation will be conducted on all key employees and primary management officials.
- C. Before the Commission shall conduct a background investigation, the applicant must review the following notice and consent to the procedures proscribed therein. The notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

"In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 USC 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties will use the information. The information may be disclosed to appropriate federal, tribal, state, local, or foreign law enforcement agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated tot this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.

- D. The disclosure of a key employee or primary management official's social security number (SSN) is required as failure to supply a SSN may result in errors in processing the application.
- E. Existing key employees and primary management officials shall be notified in writing that they shall either:
- (1) Complete a new application form that contains a Privacy Act notice; or
 - (2) Sign a statement that contains the Privacy Act Notice and Consent to the routine uses described in that notice.
- F. The Blackfeet Tribe shall place the following notice on the application form for a key employee or a primary management official before an applicant fills out that form:

A false statement of any part of your application may be ground for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment (U.S. Code Title 18, Section 1001).

The Tribe shall notify in writing existing key employees and primary management officials that they shall either:

- (1) Complete a new application form that contains a Privacy Act Notice; or
- (2) Sign a statement that contains the notice regarding false statements.

SECTION 17. BACKGROUND INVESTIGATIONS.

A. The Commission shall request from each primary management official and from each key employee all of the following information:

- (1) Full name, other names used (oral or written), SSN, birth date, place of birth, citizenship, gender, all languages (spoken and written), driver's license number;
- (2) Currently and for the past five (5) years: business and employment history, ownership interest in any business, business and residential address;
- (3) Names and current addresses of at least three personal references, including one who was acquainted with the applicant during the period of residence listed in A(2) of this section.
- (4) Current business and residence telephone numbers;
- (5) A description of any and existing business relationships with Indian tribes, including ownership interest in those businesses;
- (6) A description of any existing and previous business relationship with the gaming industry generally, including ownership interest in those businesses;
- (7) The name and address of any licensing or regulatory agency with which the applicant has filed an application for license or permit related to gaming, whether or not it was granted;
- (8) For each felony for which there is an ongoing prosecution or conviction, the charge, the name, and the address of the court involved and the date and disposition, if any;

- (9) For each misdemeanor (excluding minor traffic violations) for which there is an ongoing prosecution or conviction, the charge, the name, and the address of the court involved and the date and disposition, if any;
 - (10) A current photograph;
 - (11) Any other information deemed relevant by the Commission or the Tribe; and
 - (12) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. Section 522.2(h). Consider designating local law enforcement.
- B. The Commission shall conduct an investigation sufficient to make a determination under Section C below. In conducting a background investigation, the Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.
- C. A listing of the minimum investigative procedures to be performed, shall include the following:
- (1) Verify by written or oral communication information submitted by the applicant.
 - (2) Inquire into the applicant's prior activities, criminal record, if any, and reputation, habits and associations; interview a sufficient number of knowledgeable people such as former employers, personal references, and others to whom referred in order to provide a basis for the Tribe to make a finding concerning the eligibility for employment in a gaming operation.
 - (3) Document the disposition of all potential problem areas noted and disqualifying information obtained.
- D. An investigative report shall set forth the following:
- (1) Steps taken in conducting the background investigation;
 - (2) Results obtained;
 - (3) Conclusions reached; and
 - (4) The basis for those conclusions.

SECTION 18. ELIGIBILITY DETERMINATION

The Commission shall review a person's prior activities, criminal record, if any, and reputation, habits, and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If

the Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or practices or methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

SECTION 19. PROCEDURES FOR FORWARDING, APPLICATION AND REPORTS FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS TO THE NATIONAL INDIAN GAMING COMMISSION.

- A. When a key employee or primary management official begins work at a gaming operation authorized by this Ordinance, the Commission shall forward to the NIGC a completed application for employment and conduct the background investigation and make the determination referred to in Section 18 of this Ordinance.
- B. The Commission shall forward the report subsection 17C of this Section to the NIGC within 60 days after an employee begin work or within 60 days of the approval of the Blackfeet Tribal Gaming Ordinance by the Chairman of the NIGC.

SECTION 20. MANAGEMENT AGREEMENTS AUTHORIZED.

The Tribe, by majority vote of the Council, may choose to contract with a third party for the management of Class III gaming. Any such contract shall conform in all respects with the requirements of the Act, including submission to and approval of the Tribal Commission and the Chairman of the NIGC, pursuant to 25 U.S.C. 2711 & 2712. Any such contract must provide, at a minimum:

- A. For adequate accounting procedures that are maintained and for verifiable financial reports that are prepared, by or for the Tribal Council on a monthly basis.
- B. For access to the daily operations of the gaming to the Commission who shall also have a right to verify the daily gross revenue and income made from any such tribal gaming activity.
- C. For a minimum guaranteed payment to the Tribe that has preference over the retirement of development and construction costs.
- D. For an agreed ceiling for the repayment of development and construction costs.
- E. For a contract term not to exceed five years, except that, upon the request of the Tribe, the Chairman of the NIGC may authorize a contract term that exceeds five (5) years but does not exceed seven (7) years, if said Chairman is satisfied that the capital investment required, and the income

projections, for the particular gaming activity require the additional time;
and

- F. For grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the NIGC.

SECTION 21. SOLE PROPRIETARY INTEREST IN THE TRIBE.

The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation unless it elects to allow individually owned gaming under Section 14 of this Ordinance.

SECTION 22. APPLICATION OF NET REVENUES.

Net revenues from the conduct of Class III gaming shall be utilized for the general benefit of the Tribe. Expenditures shall be prioritized in order to insure that these general purposes are served. Accordingly, net revenues shall not be used for purposes other than:

- A. To fund Tribal government operations and programs, including, but not limited to, educational grant programs.
- B. To provide for the general welfare of the Tribe and its members, including, but not limited to, the funding of health programs and facilities.
- C. To promote Tribal economic development, including, but not limited to, low interest business loans.
- D. To donate to charitable organizations.
- E. To help fund operations of local governmental agencies.
- F. Any purpose authorized by the IGRA.

Per capita distributions shall only be authorized in accordance with a plan for such distributions that satisfies the requirements of 25 U.S.C. 2710(b)(3) and which has been approved by the Secretary of the Interior.

No per capita distribution shall precede the use of net proceeds for general community benefit as outlined above.

SECTION 23. GRANTING A GAMING LICENSE.

- A. If, within a thirty (30) day period after the NIGC notifies the Tribe that it has no objection to the issuance of a license pursuant to an application filed by a key employee or primary management official following the

process described herein, the Commission may issue a license to such applicant.

- B. The Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a key employee or primary management official who is the subject of the report. Such request shall suspend the thirty (30) day period under Section 23A of this Ordinance until the Chairman of the NIGC receives the additional information.
- C. If, within thirty (30) day period described above, the NIGC provided the Commission provided the Commission with a statement itemizing objections to the issuance of a license to a key employee or primary management official for whom the Commission has provided an application and investigative report to the NIGC, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a license to such applicant.

SECTION 24. LICENSE SUSPENSION.

- A. If, after the issuance of a gaming license, the Commission receives from the NIGC reliable information indicating that a key employee or a primary management official is not eligible for employment under Section 18 above, the Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
- B. The Commission shall notify the licensee of a time and place for a hearing on the proposed revocation of a license.
- C. After a revocation hearing, the Commission shall decide to revoke or to reinstate the license. The Commission shall notify the NIGC of its decision.

SECTION 25. LICENSE LOCATIONS.

The Commission shall issue a separate license to each place, facility or location on Indian lands where Class II and Class III gaming is conducted under this Ordinance.

SECTION 26. GAMBLING ESTABLISHMENTS DEFINED

A gambling establishment is defined as a place where:

- A. People are employed to gamble with others; and/or
- B. People are encouraged to enter the premises solely to gamble; and/or

- C. Gambling is offered or advertised on a regular basis; and/or
- D. A place or premises where gambling is being conducted by a specific person, corporation, partnership, business or other entity for pecuniary gain.

SECTION 27. LEGAL AGE FOR GAMBLING.

No person under the age of eighteen (18) years shall be permitted to participate in any game or games of chance held, operated, or conducted pursuant to this Ordinance, excepting traditional forms of gambling protected under this law. Provided, however, that this provision is not intended to change existing law relating to sale of alcoholic beverages, in so much as that law sets the minimum age for persons entering businesses which sell alcoholic beverages for on-premises consumption.

SECTION 28. FRAUDELENT CONDUCT WHILE GAMBLING.

It shall be unlawful to conduct or participate in a gambling game authorized by this law and the rules and regulations of the Commission in a manner which results in cheating, misrepresentation or other such disreputable tactics which distract from a fair and equal chance for all participants or which otherwise affects the outcome of the gambling game.

- A. **UNLAWFUL PRACTICES.** It shall be unlawful to conduct or participate in any gambling or gaming activity authorized by this Ordinance in any manner which results in cheating, misrepresentation, or other such disreputable tactics which distract from a fair and equal chance for all participants or which otherwise affects the outcome of the game.

In addition to other civil and criminal acts that may be regulated or prohibited by this Ordinance, the Compact, other Tribal law or applicable Federal law, the following shall constitute prohibited activities and unauthorized gaming under this Ordinance and shall subject any perpetrator to Commission, including, but not limited to, the imposition of civil penalties, referral to law enforcement for criminal proceedings, and license suspension or revocation:

- (1) Altering or misrepresenting the outcome of gaming or other event on which wagers have been made after the outcome of such gaming or event has been determined but before such outcome is revealed to the players;
- (2) Placing or increasing a bet or wager after acquiring knowledge of the outcome of the gaming or event which is the subject of the bet or wager, including past-posting and pressing bets;

- (3) Aiding anyone in acquiring such knowledge referred to in subsection 2 above, for the purpose of increasing or decreasing any bet or wager, or for the purpose of determining the course of play;
- (4) Claiming, collecting or taking, or attempting to claim, collect or take, money or anything of value in or from a game with intent to defraud or claiming, collecting or taking an amount greater than the amount actually won in such game;
- (5) Knowingly, enticing or inducing another to go to any place where gaming is conducted or operated in violation of the provisions of this Ordinance, with the intent that the other person play or participate in such gaming;
- (6) Reducing the amount wagered or canceling a wager after acquiring knowledge of the outcome of the game or other event, which is the subject of the bet or wager, including pinching bets;
- (7) Manipulating, with intent to cheat or defraud, any component or part of a game, any part or component of a game in a manner contrary to the designated and normal operational purpose for such component or part, with knowledge that the manipulation will affect the outcome of the game, or with knowledge of any event that affects the outcome of the game;
- (8) Defrauding the Tribe, any licensee, or any participant in any gaming;
- (9) Participating in any gaming not authorized under this Ordinance and the Compact;
- (10) Knowingly providing false information or making any false statement with respect to an application for employment or for any license, certification, or determination provided for in this Ordinance;
- (11) Knowingly providing false or misleading information or making any false or misleading statement to the Tribe, the Commission, or the Executive Director, in connection with any contract for services or property related to gaming.
- (12) Knowingly making any false or misleading statement in response to any official inquiry by the Commission or its agents;
- (13) Offering or attempting to offer any thing of value, to a licensee in an attempt to induce the licensee to act or refrain from acting in a

manner contrary to the official duties of the licensee under this Ordinance, the rules, Tribal and Federal law or specifically IGRA;

- (14) Acceptance by a licensee of any thing of value with the expectation that receipt of such thing of value is intended, or may be perceived as intended, to induce the licensee to act or refrain from acting, in a manner contrary to the official duties of the licensee under this Ordinance, the rules, Tribal and Federal law, or the IGRA;
- (15) Falsifying, destroying, erasing, or altering any books, computer data, records, or other information related to a gaming operation in ways other than is provided in approved internal control procedures;
- (16) Taking any action which interferes with or prevents the Commission or the Council from fulfilling its duties and responsibilities under this Ordinance, the rules or the IGRA;
- (17) Entering into any contract, or making payment on any contract for the delivery of goods or services to a gaming operation, when such contract fails to provide for or result in the delivery of goods or services of fair value for the payment made or contemplated; and
- (18) Except as specifically permitted by the Commission, no person shall possess, with the intent to use in connection with gaming, either individually or in concert with others, any calculator, computer, or electronic or mechanical device to assist in projecting the outcome or odds of such gaming, to keep track of or analyze cards, or to change probabilities of any game or the playing strategies regularly utilized in such gaming.

Any person who willfully and knowingly engages in any of the above conduct and who is found guilty thereof shall be fined no less than five hundred dollars (\$500.00) and no more than five thousand dollars (\$5000.00) and/or imprisoned for up to one (1) year in jail.

- B. **CIVIL SANCTIONS.** When appropriate, as an alternative to criminal prosecution, individuals found to be in violation of this code by the Gaming Agent, shall be subject to a civil proceeding, wherein the court may order prejudgment attachment of property and/or funds used or gained in violation of this code, together with civil sanction, including but not limited to an assessment of a fine in an amount of up to \$5,000.00 per day of violation. All actions and proceedings in court must comply with existing Tribal procedures set forth in the Tribal Code.

- C. **ALTERNATIVE, SANCTIONS.** Individuals found to be in violation shall be subject to only one proceeding, criminal or civil, for each violation. Alternative civil or criminal proceedings are allowed to provide effective enforcement based on the circumstances of each case. The choice of civil or criminal proceedings in a given case is discretionary, and shall not be construed as discriminatory, unless there is substantial evidence to show that the individual so deciding clearly abused discretion.

SECTION 29. ENFORCEMENT.

It shall be the duty of all peace officers of the Blackfeet Tribe to enforce the provisions of this Ordinance, either upon a complaint from the Commission or any person or persons or upon their own knowledge, and to arrest and complain against any person violating any provision of this Ordinance or the rules and regulations of the Commission to which are attached criminal penalties as set out in Section 35.

It is further the duty of the Commission to report any violations to the proper law enforcement agency for investigation and possible arrest.

It shall be the duty of the Prosecutor of the Blackfeet Tribe to prosecute all violations of this Ordinance for which there are criminal penalties.

It shall be a crime for any person or persons named herein to knowingly fail to perform his or her duty under this section and upon conviction of violating this section, the defendant may be fined up to five hundred dollars (\$500.00) or imprisoned for a period not to exceed six (6) months, or both.

SECTION 30. PROCEDURES FOR LICENSING AND RESTRICTIONS THEREON.

The Commission shall have the authority to establish regulations governing the qualifications for and the issuance, suspension, and revocation of gaming licenses as mentioned under this Ordinance. These procedures include how to apply for a license or stamp and how to renew the same, together with rules on suspension or revocation of licenses. Such rules and regulations shall be posted in public places throughout the Reservation and initially published in the local newspapers. These regulations, in addition to any other requirements, shall provide that no license be issued to:

- A. A person convicted of any major crime;
- B. A person whose license issued under this Ordinance has been revoked for cause.
- C. A person who, at the time of application for renewal of license issued hereunder, would not be eligible for such license upon first application.

- D. A person not a citizen of the United States who has not been a resident of the State of Montana for at least one (1) year prior to the filing of the application for license; and
- E. A person who is not the owner and operator of the business or organization or other entity applying for license or who is not the operator of the specific gambling game for which license is applied.

The Commission or Council may adopt additional regulations and rules for the purpose of protection of the public health, safety, and welfare of the residents of the Reservation and to assure compliance with the intent of this Ordinance. The Council must approve any regulations adopted by the Commission.

SECTION 31. HEARINGS AND APPEAL.

- A. **Hearings.** Any person or entity that feels aggrieved by any action of the Commission, may request a hearing before the Commission within ten (10) days after such action has been taken. The Commission shall then hear the complaint within ten (10) days. A majority vote of five (5) members of the Commission is needed on any final decision, and such decision will be given to the person or entity requesting the hearing within one (1) day of the hearing. A decision of the Commission shall be final unless an appeal is allowed under subsection B below.
- B. **Appeal.** In the event new evidence, which might alter the hearing decision of the Commission, is acquired after the decision of the Commission pursuant to subsection A above is rendered, an appeal may be made to the Commission within ten (10) days after such evidence is discovered. In no event may an appeal be taken or allowed hereunder after more than thirty (30) days have passed since the Commission made its original decision pursuant to subsection A. In the event an appeal is filed and allowed, the Commission shall hear it within ten (10) days after the filing of the appeal, and make its decision within one (1) day after the hearing. The decision of the Commission is final.

SECTION 32. AUDIT AND INTERNAL CONTROL.

- A. An independent audit shall be conducted annually on all Blackfeet Tribal gaming operations and submitted to the NIGC. All gaming related contracts that result in the purchase of supplies, services, and concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit.

The Commission shall promulgate rules governing the control of internal fiscal affairs of all gaming operations. At a minimum, such rules shall

require the consistent application of generally accepted accounting principles, and shall:

- (1) Prescribe minimum procedures for safeguarding of a gaming operation's assets and revenues, including recording of cash and evidence of indebtedness, and mandatory counting procedures. Such rules shall establish a controlled environment, accounting system, and control procedures that safeguard the assets of the gaming operation, assure that the operating transactions are properly recorded, promote operational efficiency, and encourage adherence to the prescribed policies;
- (2) Prescribe minimum reporting requirements to the Commission;
- (3) Provide for the adoption and use of internal audits;
- (4) Formulate uniform accounts and accounting classifications to assure the consistency, comparability, and effective disclosure of financial information. Such accounts shall require that records be retained that reflect statistical drop (amount of cash wagered by patrons), statistical win (amount of cash won by the gaming operation), and the percentage of statistical win to statistical drop, or provide similar information for each type of game in each gaming operation;
- (5) Prescribe the intervals at which such information shall be furnished;
- (6) Provide for the maintenance of documentation, (i.e. checklists, programs, reports, etc.), to evidence all internal work performed as it relates to the requirements of this section; and
- (7) Provide that all financial statements and documentation referred to in this section be maintained for a minimum of five (5) years.

B. Oversight of Internal Fiscal Affairs. The Commission may require independent audits of the financial statements of any gaming operation. Such independent audit must apply and require the consistent application of Generally Accepted Accounting Principles, and shall:

- (1) Be conducted by independent accountants, knowledgeable in casino audits and operations and licensed or certified to practice public accounting in the State of Montana;
- (2) Include an opinion, qualified or unqualified, or if appropriate, disclaim an opinion on the financial statements taken as a whole in

accordance with the standards established by rules and regulations of the American Institute of Certified Public Accountants.

- (3) Disclose whether the accounts, records and control procedures maintained by the gaming operation conform with this Ordinance and the rules; and
- (4) Provide a review of the internal financial controls of the audited gaming operation to disclose any deviation from the requirements of this Ordinance and the rules and report such findings to the Commission and the management of the audited gaming operation; and
- (5) Provide such other information, as the Commission deems necessary or appropriate.

C. **Conduct of Audit.**

- (1) The Commission shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the NIGC.
- (2) All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, and any other information the Commission deems necessary or appropriate shall be specifically included within the scope of the audit.

D. **Prohibition against Embezzlement.** Any delay or action of any kind, which, in the opinion of the Commission is effectuated by a Licensee to unlawfully or improperly divert gaming or other proceeds properly belonging to the Tribe, shall constitute grounds for taking disciplinary action against that employee. If the Commission finds an unlawful diversion was attempted, it may sanction the Licensee, report the matter to appropriate law enforcement and gaming regulatory agencies for further action and take such other action as it deems necessary or appropriate. Sanctions may include the imposition of fines, and/or the revocation, suspension, or limitation of, or refusal to renew, any license.

E. **Non-Compliance.** Failure to comply with any of the requirements of this section or the rules promulgated by the Commission or hereunder may be found to constitute a violation of this Ordinance.

SECTION 33. PROCEDURES FOR RESOLVING DISPUTES WITH GAMING PUBLIC.

- A. **Civil Remedy/Enforcement/Appeal/Issues with Ordinance.** Should a dispute arise with a member for the gaming public concerning the enforcement of this Ordinance, the member of the public affected shall have the right to file a complaint, outlining their complaint/concern, with the Commission. The Commission shall afford the individual an opportunity to be heard, and decide the merits of the complaint. Wherever possible, a gaming agent shall seek to mitigate and resolve such concern prior to the scheduling of a hearing thereon. If not otherwise resolved, a hearing shall be conducted on the complaint/concern, and a timely decision made thereon. Final decisions shall be made in writing. Decisions of the Commission shall be final once rendered.
- B. **Issues with Gaming Establishment.** Should a member of the public have a complaint against or with a gaming establishment, licensed hereunder, wherein the licensing, operation or activities are drawn into question, a written complaint may be filed with the Commission, and a gaming agent delegated the responsibility to investigate such concern. Where possible, the gaming agent shall seek to mitigate and resolve the complaint. If not otherwise resolved, the agent may file a complaint in the Tribal Court on the matter, as set forth below, or may recommend a hearing be conducted before the Commission to further determine the merits of the concern. If a hearing is recommended, the Commission shall give the individual and the establishment notice of the hearing time and an opportunity to present their respective positions thereon. The Commission shall, after conduct a hearing, attempt mediation of the matter, and if still unresolved, determine a course of action for full resolution. Such course may be that no action is warranted, that a complaint in Tribal Court for enforcement is required, or other appropriate action.
- C. **General.** Any person who conducts any unauthorized gaming or gambling activity or otherwise violates the provisions of this Ordinance, shall be subject to the sanctions and penalties contained in this Ordinance and/or in the Blackfeet Tribal Code as adopted and amended by the Tribe.
- D. **Notice of Non-Compliance.** The Gaming Agent, if he finds that an individual has failed to comply with the licensing, relicensing, fee, or tax requirements, shall deliver by first class mail, return receipt requested, a notice of non-compliance to the individual in violation, at the address provided in the licensing application. If, within fifteen (15) days of delivery, compliance is not effected, the Gaming Agent shall report the violation to the Tribal Court, and the individual in non-compliance shall be prosecuted or civil sanctions sought. Machines and/or equipment used

in violation of this code shall be subject to seizure and/or forfeiture, with or without notice. If the Gaming Agent or others learn of anyone operating a game or machine without license, such conduct shall be immediately reported to the Tribal Court for prosecution or civil sanction.

- E. **Fines as Liens.** Fines/penalties may be established as liens upon specifically described property involved in a violation of this Ordinance. In the case of real property, such order shall be filed for record notice with the Glacier County Clerk and Recorder and/or the Bureau of Indian Affairs. Liens on personal property shall be filed with the Secretary of State of Montana. Upon twenty (20) days written notice served, or fifty (50) days notice by publication, with opportunity to request a hearing on the maker no later than one (1) day after the expiration of the notice period, the Tribal Court may order the property sold at a public auction or forfeited to the Tribe. Proceeds from property sold will go to the Tribe.
- F. **Appeals to the Tribal Court.** Any person or entity wishing to appeal any decision of the Tribal Court shall follow the procedures outlined in the Blackfeet Tribal Code.

SECTION 34. EXCLUSION OF PERSONS FROM FACILITY. It shall be a violation of this Ordinance for any licensee to knowingly fail to exclude from the gaming area of a gaming establishment any individual who:

- A. Is visibly under the influence of alcohol, a drug, or other intoxicating substance;
- B. Is under the age of eighteen years of age;
- C. Is displaying disorderly conduct;
- D. Is a person known to have committed a gaming felony;
- E. Is known to have a reputation for cheating or manipulation of games; or
- F. Has been personally excluded, or is a member of any group or type of persons which have been excluded for cause from gaming establishments by resolution of the Commission.
- G. **Right to Exclude or Remove** If the Commission deems it in the best interest of the Tribe, the Commission may exclude or remove any persons from the premises of any gaming operation. Any person so excluded shall be entitled to a hearing as provided within this Ordinance and shall have the rights provided to "Applicant or Licensee" therein. The manager of any gaming operation shall also have the authority to exclude or remove

any person from the gaming establishment, and all such actions shall be reported to the Commission within 24 hours of the taking of such action.

H. **Right to Permanently exclude or remove**

- (1) The Commission shall have the power and authority to permanently exclude any person from gaming establishments who has caused a serious or repeated disturbance, inappropriate action, or in any other way has interfered with the orderly conduct of ordinary business in the facility.
- (2) Only the Chairman of the Commission before a properly convened meeting of the Commissioners may bring the request for permanent exclusion of a person. The Commissioners may consider the Chairman's request in an open or closed meeting, and may or may not, at their complete discretion, allow the person subject to the request, to attend the meeting of the Commissioners. Except as otherwise provided, the decision of the Commission is final, and not subject to review.
- (3) When the Commission has determined that a person shall be permanently excluded from the facility, that person's name shall be reported to the Tribal Gaming Enforcement Agents and the proper law enforcement agency.
- (4) The Commission or any of its agents shall notify the person permanently excluded of the Commission's decision, in writing, either by personally delivering the notice by handing it to the person or by mailing it by certified mail to the person's last known address.
 - a. Should the person who has been excluded be a member of the Tribe, that person may request that the Tribe review the decision of the Commission, and make its own independent determination. The determination of the Council shall be final, and not subject to review.

SECTION 35. RULES OF PROCEDURE FOR HEARINGS.

- A. **Scope of Rules of Procedure** All license hearings, enforcement hearings, and exclusion hearings conducted by the Commission or the Council shall be governed by this Section.

B. Hearings

- (1) The Commission shall afford an applicant an opportunity for hearing prior to any action by the Commission on an application, other than an unconditional grant of a license.
- (2) The Commission shall afford a licensee opportunity for a hearing prior to taking final action resulting in the revocation of the License or the imposition of any penalties which the Commission is authorized to impose pursuant to this Ordinance.
- (3) Nothing in this Section shall limit the Commission's authority to summarily suspend or revoke a license without a hearing pursuant to any other section in this Ordinance.

C. Notice of Hearing

- (1) The Commission shall provide written notice to the Applicant or Licensee of the hearing at least ten (10) days prior to the date set for the hearing. The date the Applicant or Licensee receives the notice shall be considered full days notice under this Section. The notice shall be sent by registered or certified mail, or may be personally served upon the Applicant or Licensee. The notice shall state the date, time, and place of the hearing. The notice shall also contain an indication of the action(s) being considered by the Commission, including, but not limited to:
 - (1) Whether the Commission is holding the hearing for the purpose of obtaining information from the applicant;
 - (2) Whether the Commission will be considering the grant or denial of the license application;
 - (3) Whether the Commission will be examining any alleged violations of the Ordinance, Compact, the IGRA, the conditions of any license issued by the Commission, any order by the Commission, or any other applicable laws, regulations, or agreements; or
 - (4) Whether any other sanctions or penalties will be considered.

The notice shall also contain a short, plain statement of the reasons the Commission determines the hearing necessary.

D. Ex-parte Communications

- (1) No ex-parte communication relative to the action being considered by the Commission shall be made before a decision is rendered, to any member of the Commission by or on behalf of the applicant or

licensee or any legal representative of the same including, but not limited to, threats or offers of reward.

- (2) Nothing in this section shall prevent the applicant, licensee, or its authorized agent from communicating with the Commission's legal counsel.
- (3) Any member of the Commission who receives ex-parte communication shall immediately report the same to the Commission's legal counsel.
- (4) For purposes of this section only, the action(s) being considered by the Commission shall be those matters identified in the written notice as provided in Section 8.03(a) of this Ordinance, as well as any other matters actually considered by the Commission during a hearing. All matters identified in the written notice shall be subject to the prohibition against ex-parte communication. All matters not identified that are considered by the Commission during a hearing become subject to prohibition of ex-parte communication as soon as they are discussed in the hearing.

E. Appearance through Counsel

- (1) Parties to all hearings governed by this Ordinance may appear personally or through an attorney, except that a party must personally attend any hearing on the merits unless the Commission has waived his/her attendance, in writing.
- (2) When a party has appeared through an attorney, service of all notices, motions, orders, decisions and other papers shall thereafter be made upon the attorney, unless the party requests otherwise in writing.
- (3) When an attorney represents a party, the attorney shall sign all motions, notices, requests, and other papers on behalf of the party, including a request for subpoenas.
- (4) Any attorney appearing before the Commission must be duly admitted to practice law in the Blackfeet Tribal Court.

F. Discovery Procedures for Enforcement Hearings

- (1) The Commission's legal counsel and the Licensee shall exchange a list of persons that each party intends to call as witnesses no later than five (5) business days before a scheduled enforcement hearing. The day the list is received shall be considered a full

day's notice under this Section. Each witness shall be identified by name, if known, position, and business address. If none is available, a home address for the witness shall be provided. Any witness not identified in accordance with this section may be prohibited from testifying at a hearing at the Commission's discretion.

- (2) The Commission's legal counsel and the Licensee shall exchange copies of all documents or tangible things that they intend to offer as evidence in support of the party's case in chief. This exchange shall be made to the opposing party no later than five (5) business days before a scheduled enforcement hearing. The day the documents are received shall be considered a full days notice under this Section. Failure to make available any document or tangible thing in accordance with this Section may, in the Commission's discretion, be grounds for denial of admission into evidence of such document or tangible thing.

G. **Confidential Materials**

- (1) Prior to making any document available to the Commission's legal counsel or designated agent, the Applicant or Licensee may designate any document it believes to contain confidential information as "subject to confidentiality claim" by so marking the document prior to providing a copy of the document to the Commission's legal counsel.
- (2) Documents provided to the Commission's legal counsel or designated agent marked in accordance with Section (1) above and any non-public information contained within the document shall not be made a part of the public record of the Commission proceedings otherwise disclosed by the Commission to any person (except as may be required by law, rule, regulation, order, or the compact), without first providing the applicant to seek a ruling by the Commission that it should not be made public. The request and discussions relating to the document shall be heard and ruled upon by the Commission in an Executive Session meeting in order to hear and rule upon the request. The applicant may present written and oral argument regarding the confidentiality claim along with any facts relevant to such an argument.
- (3) In determining whether a document should be made public record pursuant to Section (2) above, the Commission will balance the request against the materiality of the information to the hearing, the public's right to be made aware of the information, and the Commissioner's need to make the information public to remain accountable for the licensing decision. In making this

determination the Commission shall consider all facts and circumstances relevant to make a proper ruling.

- (4) In the event the Commission rules that the information should be made part of the public record of the Commission's proceedings, the document will be made public record unless the Applicant withdraws the document from the Commission's presence.
- (5) In the event the Applicant chooses to withdraw the document the Commission will then weigh the withdrawal along with the other evidence in making final determination on the hearing. The Commission shall look upon withdrawal of documents from the process with disfavor and depending on the facts and circumstances, the Commission may deem this sufficient cause in and of itself for denial of a license.
- (6) In the event the Commission rules during Executive Session that the document and/or other information contained therein shall be designated "Confidential" and will not be made part of the public record of proceedings the document shall be considered "Confidential" and shall not be made part of the public record. The Commission may consider the information in camera.
- (7) At the conclusion of the Commission proceedings, the Commission will return to the Applicant or Licensee all documents ruled as "Confidential".

H. **Subpoenas**

- (1) The Commission has the power and authority to issue subpoenas and to impose reasonable penalties for the non-compliance thereof.
- (2) Subpoenas may be issued to compel a person to appear at hearings on the merits of the case, to give oral testimony, or to produce documents or other tangible things.

I. **Hearing Procedures**

- (1) The Executive Director of the Commission shall preside over all hearings, and shall call the proceedings to order, control the presentation of evidence, and the appearance of witnesses, and the order of the proceedings.
- (2) The Commission may require any person, including any agent or licensee or employee of any agent or licensee to appear and testify before it with regard to any matter within its jurisdiction at such

time and place as it may designate. Such testimony will be under oath and may include matters, which the Commission deems relevant to the discharge of the Commission's official duties. Testimony shall be recorded by a duly certified by a certified court reporter any may be used by the Commission as evidence in any proceeding or matter before the Commission. Failure to appear and testify fully at the time and place designated shall result in sanctions. Failure to appear may constitute grounds for:

- (a) The refusal to grant license to the person summoned and/or that persons principal or employer;
 - (b) The revocation or suspension of a license held by the person summoned, and/or that persons principal or employer;
 - (c) The interference that the testimony of the person summoned would have been adverse to that person and/or that person's principal or employer.
- (3) Any party to the hearing may call and examine witnesses, and may request to limit the testimony of witnesses where that testimony is argumentative or repetitive.
 - (4) The Commission shall have the authority to eject from the hearings any person who is disruptive, disorderly, or who fails who proper respect for the Commission or the nature of the proceedings.
 - (5) Persons shall speak only when recognized by the Chairman.
 - (6) Any member of the Commission may ask questions of witnesses, and may request or allow additional evidence at any time.
 - (7) Any party to the hearing may conduct cross-examinations reasonably required for a full and true disclosure of the facts.
 - (8) All hearings held under this Ordinance shall be open to the public.
 - (9) The Commission, in its discretion, has the power to sequester witnesses.

J. Evidence

- (1) In hearings governed by this Ordinance, the Commission shall not be bound by technical rules relating to evidence and witnesses. The Commission give effect to the rules of privilege unless such privilege is waived. Basic principles of relevancy, materiality, and probative force shall govern the proof of all questions of fact.

Objections, to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.

- (2) All evidence, including records and documents in possession of the Commission or which the Commission desires to avail itself, shall be duly offered and made part of the record. Every party shall be offered the opportunity to rebut or offer countervailing evidence.
- (3) The Commission may take official notice of any generally recognized fact or established technical or scientific fact; but parties shall be notified either before or during the hearing or by full reference in preliminary reports or otherwise, of the facts so noticed, and they shall be afforded an opportunity to contest the validity of the official notice.
- (4) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, the parties shall be given an opportunity to compare the copy to the original.
- (5) The record in all hearings governed by this Ordinance shall include:
 - (a) All applications, intermediate rulings, exhibits and appendices thereto.
 - (b) Evidence received or considered, stipulations and admissions, including but not limited to confidential evidence pursuant to Section 36(G) of this Ordinance.
 - (c) A statement of matters officially noticed.
 - (d) Questions and offers of proof, objections and rulings thereon.
 - (e) Any decision, opinion, finding or report of the Commission.
 - (f) The transcript prepared by a duly certified court reporter.

K. Determinations by the Commission

- (1) The Commission shall make all determinations of issues before it by majority vote.
- (2) All determinations made by the Commission involving the grant, denial, cancellation, or revocation of a license, a finding of a violation of this Ordinance, the Rules, the Compact, IGRA, the conditions of any license issued by the Commission, any order of the Commission, or any other applicable law, regulation, or agreement, and the imposition of any sanction or penalty shall be made by motion and on the record.

- (3) A copy of any resolution reached shall be served upon the Applicant or Licensee by registered or certified mail or personal service.

L. **Sanctions** If any party or its attorney fail to comply with any provision of this Ordinance, the Rules, the Compact, IGRA, the conditions of any license issued by the Commission, any order of the Commission, or any other applicable law, regulation or agreement, including but not limited to any agreement regarding any matter, including but not limited to discovery matters and the failure to appear at a hearing at the scheduled time, the Commission upon motion or upon its own initiative may, in its discretion, impose upon such party or attorney or both, appropriate sanctions in regard to the failure(s) as are just, including, but not limited to, the following:

- (1) An order prohibiting the use of any witness, document, or tangible thing which should have been disclosed, produced, exhibited, or exchanged pursuant to these rules or any order of the Commission.
- (2) An order that designated facts shall not be taken to be established.
- (3) An order that the disobedient party may not support or oppose any designated claims or defenses.
- (4) An order striking any pleading or parts thereof, or staying further proceedings, or dismissing the proceeding or any part thereof, or entering a judgment by default against the disobedient party.
- (5) A finding against the disobedient party; or
- (6) Any sanction otherwise set forth in this Ordinance.

SECTION 36. MISCELLANEOUS.

A. **SEVERABILITY/CONSTRUCTION.** If any clause, part, or section of this Ordinance shall be adjudged invalid, such judgment shall not affect or invalidate the remainder of the Ordinance, but shall be confined to its operation to the clause, part or section, directly involved in the controversy in which judgment is rendered. If the operation of any clause, part, or section of this Ordinance shall be held to impair the obligation of a contract or to deny any person the right secured to him by the Tribal or Indian Civil Rights Act, it is hereby declared that had the invalidity of said clause, part, or section been considered at the time of the enactment of this Ordinance, the remainder of the Ordinance would nevertheless have been adopted without such and any all such invalid clauses, parts, or sections.

- B. **CONTRACTUAL OBLIGATIONS.** Nothing in this Ordinance shall impair or affect the authority of the Commission and/or Council in any manner whatsoever to fulfill its complete contractual obligations related to any subject matter herein.

SECTION 37. EXCLUSIVE JURISDICTION. The Blackfeet Tribal Court shall have exclusive jurisdiction over the enforcement of this Ordinance in actions brought by the Tribe except to the extent federal law provides otherwise. No other suits are authorized in any form for any reason hereunder.

SECTION 38. AMENDMENTS. This Ordinance may be amended at any time by majority vote of the Council.

SECTION 39. EFFECTIVE DATE. This Ordinance shall become effective upon adoption and approval of the Council.

SECTION 40. SOVEREIGN IMMUNITY OF THE COMMISSION. The Blackfeet Tribe, acting through the Blackfeet Tribal Business Council, confers on the Commission all of the Tribe's rights, privileges, immunities, and sovereign immunity from suit, to the same extent that the Tribe would have such rights, privileges and immunities, if it engaged in the activities undertaken by the Commission.

SECTION 41. LIMITED WAIVER OF SOVEREIGN IMMUNITY OF THE COMMISSION. The Commission hereby expressly waives its sovereign immunity from suit in any case against the Commission wherein relief is limited to injunctive or declaratory relief against the Commission.

SECTION 42. NATIONAL INDIAN GAMING COMMISSION AND COMPACT.

- A. **National Indian Gaming Commission- Regulation.** Notwithstanding any provision in this Ordinance or the rules, the Commission is hereby fully empowered to comply with all regulations promulgated by the NIGC, including, but not limited to, reporting requirements relating to ordinances, contracts, license applications, background checks, and other information.
- B. **National Indian Gaming Commission-Assessment.** Notwithstanding any provision in this Ordinance or the rules, the Commission is hereby fully empowered to comply with all assessments authorized by the NIGC. Such assessments shall be payable solely from funds of gaming operations as an operating expense.
- C. **Compact with the State of Montana.** Notwithstanding any provision in this Ordinance or the rules, the Commission is fully empowered to comply with the provisions of the Compact, including, but not limited to any licensing, approval, or monitoring requirements contained in the Compact.

SECTION 43. GENERAL REQUIREMENT.

- A. **Security and Surveillance.** Each gaming establishment must provide for full security and surveillance within the gaming establishment at all times. The Commission must license all security personnel in a gaming establishment. The security and surveillance departments shall interact when necessary to carry out their official duties and to coordinate their activities in order to effectuate the best protection for the gaming patrons and the Tribal and management interests and assets of the enterprise.
- B. **Compliance with Environmental and Other Laws.** The construction, maintenance, and operation of any gaming operation shall be in a manner which protects the environment, public health and safety, and shall comply with all applicable Tribal and Federal laws relating to environmental protection and public health and safety including, but not limited to, 25 C.F.R. §522.4(b)(7).

SECTION 44. WORDS AND TERMS. Tense, number and gender. In interpreting the provisions of this Ordinance, save when otherwise plainly declared or clearly apparent from the context:

- A. Words in the present tense shall include the future tense;
- B. Words in masculine, feminine, and neuter genders shall include all genders; and
- C. Words in the singular shall include the plural, and words in the plural shall include the singular.

SECTION 45. REPEAL. To the extent that they are inconsistent with this Ordinance, all prior gaming laws, rules, ordinances, or regulations of the Tribe are hereby repealed.

SECTION 46. UNCLAIMED WINNINGS.

- A. Any winnings, whether property or cash, which are due and payable to a participant in any gaming activity, and which remain unclaimed at the end of a gaming session, shall be held in safekeeping for the benefit of such participant if his or her identity is known. Such winnings shall be held for twelve months or such longer period as the Commission deems reasonable in consideration of all relevant facts and circumstances. The Commission shall make such efforts as are reasonable under the circumstances to locate such participant. At the end of the safekeeping period, such winnings shall revert to the ownership of the Tribe and shall be transferred to the account or place designated by the Executive Treasurer.

- B. In the event the identity of a participant entitled to unclaimed winnings is unknown, the Commission shall use its best efforts to learn the identity of such individual and shall follow the procedure set forth in this Ordinance if the Commission is able to identify such individual with reasonable certainty; provided, however, if after six months from the time the winnings were payable, the Commission has been unable to identify the individual entitled thereto, such winnings shall revert to the ownership of the Tribal Government.

SECTION 47. PATRON DISPUTES. Any person having any dispute, disagreement or other grievance with the gaming operation that involves currency, tokens, coins, or other thing of value, may seek resolution of the dispute from the following persons and in the following order:

- A. A member of the staff relevant to the gaming operation
- B. The supervisor in the area of the relevant gaming operation in which the dispute arose;
- C. The manager of the relevant gaming operation; and
- D. The Commission.

SECTION 48. PATRON RIGHTS REGARDING DISPUTES. When a person brings a dispute for resolution the Complainant has the right to explain his or her side of the dispute, and to present witnesses in connection with any factual allegations. At each level, if the dispute remains unresolved, the Complainant shall be informed of the right to take the dispute to the next level as set forth in Section 48 above. Resolution of any dispute by the personnel of a gaming operation shall always involve two or more staff members. All disputes, whether resolved or not, shall be reported in detail by the staff persons involved to their supervisor, or, in the case of the general manager of the gaming operation, to the Commission.

SECTION 49. GAMING COMMISSION ACTION ON PATRON DISPUTES. The Commission based on information provided by the Complainant and the gaming operation, including any witnesses for, or documents provided by or for, the Complainant, shall decide all disputes, which are submitted to the Commission. The decision of the Commission shall be in writing, shall be issued fourteen (14) days of the submission of the matter to the Commission, and shall be provided to the general manager of the gaming operation and to the Complainant.

SECTION 50. AGENT FOR SERVICE OF PROCESS. The Commission Chairman shall be designated agent for service of process for the Commission of the Tribe. The Chairman shall promptly report any such service to the Commission, and shall promptly provide the Commission with a copy of any complaints or other documents served.

SECTION 51. CONSENT TO JURISDICTION. Any person who applies for a License under this Ordinance, applies for employment in any gaming establishment,

enters into any contract or agreement related to gaming, or participates in any gaming on the Reservation, shall be deemed to consent to the jurisdiction of the Tribe, the Commission, and the Tribal Court. Nothing in this section shall limit the jurisdiction of the Tribe, the Commission or the Tribal Court under any circumstances not explicitly contemplated in the section.

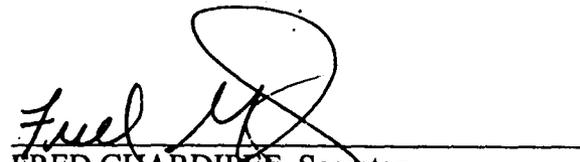
SECTION 52. COMITY AND CONCURRENT JURISDICTION. The Commission is empowered to seek comity and enforcement of the orders of the Commission by the courts of any other jurisdiction whose assistance may be required to give effect to the orders of the Commission. The Commission is also empowered to issue orders to enforce the lawful orders of other gaming regulatory agencies and the courts of foreign jurisdiction.

CERTIFICATION

The Blackfeet Tribal Business Council adopted the foregoing Ordinance on the _____ day of _____, 2004, with a vote of _____ members FOR, _____ members AGAINST, and _____ members NOT VOTING, pursuant to authority vested in it by Article VI, Section I, subsection (a), (i), (l), (t), and (u) of the Blackfeet Tribal Constitution and By-laws adopted and approved under Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended.


WILLIAM A. TALKS ABOUT, Chairman

(Corporate Seal)


FRED GUARDIPEE, Secretary
Blackfeet Tribal Business Council

APPROVED:

NATIONAL INDIAN GAMING COMMISSION

BY; _____